

109TH CONGRESS
2D SESSION

S. 3648

To compromise and settle all claims in the case of Pueblo of Isleta v. United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 12, 2006

Mr. DOMENICI (for himself and Mr. BINGAMAN) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

A BILL

To compromise and settle all claims in the case of Pueblo of Isleta v. United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pueblo of Isleta Settle-
5 ment and Natural Resources Restoration Act of 2006”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1 (1) there is pending before the United States
2 Court of Federal Claims a civil action filed by the
3 Pueblo against the United States in which the Pueb-
4 lo seeks to recover damages pursuant to the Isleta
5 Jurisdictional Act;

6 (2) the Pueblo and the United States, after a
7 diligent investigation of the Pueblo claims, have ne-
8 gotiated a Settlement Agreement, the validity and
9 effectiveness of which is contingent on the enact-
10 ment of enabling legislation;

11 (3) certain land of the Pueblo is waterlogged,
12 and it would be to the benefit of the Pueblo and
13 other water users to drain the land and return water
14 to the Rio Grande River; and

15 (4) there is Pueblo forest land in need of reme-
16 diation in order to improve timber yields, reduce the
17 threat of fire, reduce erosion, and improve grazing
18 conditions.

19 (b) PURPOSES.—The purposes of this Act are—

20 (1) to improve the drainage of the irrigated
21 land, the health of the forest land, and other natural
22 resources of the Pueblo; and

23 (2) to settle all claims that were raised or could
24 have been raised by the Pueblo against the United

1 States under the Isleta Jurisdictional Act in accord-
2 ance with section 5.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) ISLETA JURISDICTIONAL ACT.—The term
6 “Isleta Jurisdictional Act” means Public Law 104–
7 198 (110 Stat. 2418).

8 (2) PUEBLO.—The term “Pueblo” means the
9 Pueblo of Isleta, a federally-recognized Indian tribe.

10 (3) RESTORATION FUND.—The term “Restora-
11 tion Fund” means the Pueblo of Isleta Natural Re-
12 sources Restoration Fund established by section
13 4(a).

14 (4) SECRETARY.—The term “Secretary” means
15 the Secretary of the Interior.

16 (5) SETTLEMENT AGREEMENT.—The term
17 “Settlement Agreement” means the Agreement of
18 Compromise and Settlement entered into between
19 the United States and the Pueblo dated July 12,
20 2005, as modified by the Extension and Modification
21 Agreement executed by the United States and the
22 Pueblo on June 22, 2006, to settle the claims of the
23 Pueblo in Docket No. 98–166L, a case pending in
24 the United States Court of Federal Claims.

1 **SEC. 4. PUEBLO OF ISLETA NATURAL RESOURCES RES-**
2 **TORATION TRUST FUND.**

3 (a) ESTABLISHMENT.—There is established in the
4 Treasury of the United States a trust fund, to be known
5 as the “Pueblo of Isleta Natural Resources Restoration
6 Fund”, consisting of—

7 (1) such amounts as are transferred to the Res-
8 toration Fund under subsection (b); and

9 (2) any interest earned on investment of
10 amounts in the Restoration Fund under subsection
11 (d).

12 (b) TRANSFERS TO RESTORATION FUND.—Upon
13 entry of the final judgment described in section 5(b), there
14 shall be transferred to the Restoration Fund, in accord-
15 ance with conditions specified in the Settlement Agree-
16 ment and this Act—

17 (1) \$32,838,750 from the permanent judgment
18 appropriation established pursuant to section 1304
19 of title 31, United States Code; and

20 (2) in addition to the amounts transferred
21 under paragraph (1), at such times and in such
22 amounts as are specified for that purpose in the an-
23 nual budget of the Department of the Interior, au-
24 thorized to be appropriated by subsection (f), and
25 made available by an Act of appropriation, a total of
26 \$7,200,000.

1 (c) DISTRIBUTION OF AMOUNTS FROM RESTORA-
2 TION FUND.—

3 (1) APPROPRIATED AMOUNTS.—

4 (A) IN GENERAL.—Subject to paragraph
5 (3), upon the request of the Pueblo, the Sec-
6 retary shall distribute amounts deposited in the
7 Restoration Fund pursuant to section V of the
8 Settlement Agreement and subsection (b)(2), in
9 accordance with the terms and conditions of the
10 Settlement Agreement and this Act, on the con-
11 dition that the Secretary, before any such dis-
12 tribution, receives from the Pueblo such assur-
13 ances as are satisfactory to the Secretary
14 that—

15 (i) the Pueblo shall deliver funds in
16 the amount of \$7,100,000 toward drainage
17 and remediation of the agricultural land
18 and rehabilitation of forest and range land
19 of the Pueblo in accordance with section
20 IV(C) and IV(D) of the Settlement Agree-
21 ment; and

22 (ii) those funds shall be available for
23 expenditure for drainage and remediation
24 expenses as provided in sections IV(C) and
25 IV(D) of the Settlement Agreement on the

1 dates on which the Secretary makes dis-
2 tributions, and in amounts equal to the
3 amounts so distributed, in accordance with
4 sections IV(A) and IV(B) of the Settle-
5 ment Agreement.

6 (B) USE OF FUNDS.—Of the amounts dis-
7 tributed by the Secretary from the Restoration
8 Fund under subparagraph (A)—

9 (i) \$5,700,000 shall be available to
10 the Pueblo for use in carrying out the
11 drainage and remediation of approximately
12 1,081 acres of waterlogged agricultural
13 land, as described in section IV(A) of the
14 Settlement Agreement; and

15 (ii) \$1,500,000 shall be available to
16 the Pueblo for use in carrying out the re-
17 habilitation and remediation of forest and
18 range land, as described in section IV(B)
19 of the Settlement Agreement.

20 (C) FEDERAL CONSULTATION.—Restora-
21 tion work carried out using funds distributed
22 under this paragraph shall be planned and per-
23 formed in consultation with—

24 (i) the Bureau of Indian Affairs; and

1 (ii) such other Federal agencies as are
2 necessary.

3 (D) UNUSED FUNDS.—Any funds, includ-
4 ing any interest income, that are distributed
5 under this paragraph but that are not needed
6 to carry out this paragraph shall be available
7 for use in accordance with paragraph (2)(A).

8 (2) AMOUNTS FROM JUDGMENT FUND.—

9 (A) IN GENERAL.—Subject to paragraph
10 (3), the amount paid into the Restoration Fund
11 under subsection (b)(1), and interest income re-
12 sulting from investment of that amount, shall
13 be available to the Pueblo for—

14 (i) the acquisition, restoration, im-
15 provement, development, and protection of
16 land, natural resources, and cultural re-
17 sources within the exterior boundaries of
18 the Pueblo, including improvements to the
19 water supply and sewage treatment facili-
20 ties of the Pueblo; and

21 (ii) for the payment and reimburse-
22 ment of attorney and expert witness fees
23 and expenses incurred in connection with
24 Docket No. 98–166L of the United States

1 Court of Federal Claims, as provided in
2 the Settlement Agreement.

3 (B) NO CONTINGENCY ON PROVISION OF
4 FUNDS BY PUEBLO.—The receipt and use of
5 funds by the Pueblo under this paragraph shall
6 not be contingent upon the provision by the
7 Pueblo of the funds described in paragraph
8 (1)(A)(i).

9 (3) EXPENDITURES AND WITHDRAWAL.—

10 (A) TRIBAL MANAGEMENT PLAN.—

11 (i) IN GENERAL.—Subject to clause
12 (ii), the Pueblo may withdraw all or part
13 of the Restoration Fund on approval by
14 the Secretary of a tribal management plan
15 in accordance with section 202 of the
16 American Indian Trust Fund Management
17 Reform Act of 1994 (25 U.S.C. 4022).

18 (ii) REQUIREMENTS.—In addition to
19 the requirements under the American In-
20 dian Trust Fund Management Reform Act
21 of 1994 (25 U.S.C. 4001 et seq.), a tribal
22 management plan described in clause (i)
23 shall require that the Pueblo shall expend
24 any funds withdrawn from the Restoration
25 Fund under this paragraph in a manner

1 consistent with the purposes described in
2 the Settlement Agreement.

3 (B) ENFORCEMENT.—The Secretary may
4 take judicial or administrative action to enforce
5 the provisions of any tribal management plan
6 described in subparagraph (A)(i) to ensure that
7 any funds withdrawn from the Restoration
8 Fund under this paragraph are used in accord-
9 ance with this Act.

10 (C) LIABILITY.—If the Pueblo exercises
11 the right to withdraw funds from the Restora-
12 tion Fund under this paragraph, neither the
13 Secretary nor the Secretary of the Treasury
14 shall retain any liability for the accounting, dis-
15 bursement, or investment of the funds with-
16 drawn.

17 (D) EXPENDITURE PLAN.—

18 (i) IN GENERAL.—The Pueblo shall
19 submit to the Secretary for approval an ex-
20 penditure plan for any portion of the funds
21 in the Restoration Fund made available
22 under this Act that the Pueblo does not
23 withdraw under this paragraph.

24 (ii) DESCRIPTION.—The expenditure
25 plan shall describe the manner in which,

1 and the purposes for which, funds of the
 2 Pueblo remaining in the Restoration Fund
 3 will be used.

4 (iii) APPROVAL.—On receipt of an ex-
 5 penditure plan under clause (i), the Sec-
 6 retary shall approve the plan if the Sec-
 7 retary determines that the plan is reason-
 8 able and consistent with this Act and the
 9 Settlement Agreement.

10 (E) ANNUAL REPORT.—The Pueblo shall
 11 submit to the Secretary an annual report that
 12 describes expenditures from the Restoration
 13 Fund during the year covered by the report.

14 (d) MAINTENANCE AND INVESTMENT OF RESTORA-
 15 TION FUND.—

16 (1) IN GENERAL.—The Restoration Fund and
 17 amounts in the Restoration Fund shall be main-
 18 tained and invested by the Secretary of the Interior
 19 pursuant to the first section of the Act of June 24,
 20 1938 (52 Stat. 1037, chapter 648).

21 (2) CREDITS TO RESTORATION FUND.—The in-
 22 terest on, and the proceeds from the sale or redemp-
 23 tion of, any obligations held in the Restoration Fund
 24 shall be credited to, and form a part of, the Restora-
 25 tion Fund.

1 (e) PROHIBITION ON PER-CAPITA PAYMENTS.—No
2 portion of the amounts in the Restoration Fund shall be
3 available for payment on a per-capita basis to members
4 of the Pueblo.

5 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
6 authorized to be appropriated to the Restoration Fund
7 \$7,200,000.

8 **SEC. 5. RATIFICATION OF SETTLEMENT, DISMISSAL OF**
9 **LITIGATION, AND COMPENSATION TO PUEB-**
10 **LO.**

11 (a) RATIFICATION OF SETTLEMENT AGREEMENT.—
12 The Settlement Agreement is ratified.

13 (b) DISMISSAL.—Not later than 90 days after the
14 date of enactment of this Act, the Pueblo and the United
15 States shall execute and file a joint stipulation for entry
16 of final judgment in the case of Pueblo of Isleta v. United
17 States, Docket 98–166L, in the United States Court of
18 Federal Claims in such form and such manner as are ac-
19 ceptable to the Attorney General and the Pueblo.

20 (c) COMPENSATION.—After the date of enactment of
21 this Act, in accordance with the Settlement Agreement,
22 and upon entry of the final judgment described in sub-
23 section (b)—

24 (1) compensation to the Pueblo shall be paid
25 from the permanent judgment appropriation estab-

1 lished pursuant to section 1304 of title 31, United
2 States Code, in the total amount of \$32,838,750 for
3 all monetary damages and attorney fees, interest,
4 and any other fees and costs of any kind that were
5 or could have been presented in connection with
6 Docket No. 98–166L of the United States Court of
7 Federal Claims; but

8 (2) the Pueblo shall retain all rights, including
9 the right to bring civil actions based on causes of ac-
10 tion, relating to the removal of ordnance under—

11 (A) the Comprehensive Environmental Re-
12 sponse, Compensation, and Liability Act of
13 1980 (42 U.S.C. 9601 et seq.);

14 (B) the Defense Environmental Restora-
15 tion Program under section 2701 of title 10,
16 United States Code; and

17 (C) any contract entered into by the Pueb-
18 lo for the removal of ordnance.

19 (d) OTHER LIMITATIONS ON USE OF FUNDS.—The
20 Indian Tribal Judgment Funds Use or Distribution Act
21 (25 U.S.C. 1401 et seq.) shall not apply to funds distrib-
22 uted or withdrawn from the Restoration Fund under this
23 Act.

24 (e) NO EFFECT ON LAND, RESOURCES, OR WATER
25 RIGHTS.—Nothing in this Act affects the status of land

- 1 and natural resources of the Pueblo or any water right
- 2 of the Pueblo.

